



CITY OF LOWELL, MASSACHUSETTS
BOARD OF HEALTH

October 6, 2021

IN ATTENDANCE

Jo-Ann Keegan, Chairperson
William Galvin, Board Member
Lisa Golden, Board Member
Erin Gendron, Board Member
Kathleen Cullen-Lutter, Board Member (via Conference Call)
Brendan Flynn, Interim HHS Director
Cesar Pungirum, Tobacco Control Program Director
Shawn Machado, Sr. Sanitary Code Inspector

Chairperson Jo-Ann Keegan called the meeting to order at 6:03 PM

10/6/2021 – Minutes

1. NEW BUSINESS

1.I. For Acceptance: Minutes of the September 1, 2021 meeting of the Board of Health

Motion: To accept the minutes of the September 1, 2021 meeting of the Board of Health made by Lisa Golden, seconded by Kathleen Cullen-Lutter. All in favor.

1.II. For Review: Monthly Development Services Report submitted by Senior Sanitary Code Inspector Shawn Machado
Senior Sanitary Code Inspector Shawn Machado reviewed the reports with the Board and answered any questions the Board had.

1.III. For Review: Trinity EMS, Inc. Reports and Notifications submitted by Jon Kelley
The Board reviewed the monthly Trinity EMS, Inc. ambulance report and placed on file.

1.IV. Discussion: Mask Requirements in Indoor Locations

The Board discussed implementing a mask requirement for indoor public places. The Board felt the COVID-19 figures were currently stable although the number of positive cases in the 0-19 demographic is increase. This item agenda will be moved forward to the next agenda for further discussion.

1.V. For Review: Tobacco Control Monthly Report submitted by Cesar Pungirum, Program Director
Tobacco Control Grant Program Director Cesar Pungirum reviewed the report with the Board. Mr. Pungirum informed the Board of Delta8-THC products which can only be sold in licensed Marijuana Retail Stores or Dispensaries. The Board had no questions and placed the report on file.

1.VI. Tobacco Permit Suspension Hearings- Sale to a Minor

Tobacco Control Grant Program Director Pungirum spoke to the Board about the Tobacco Permit Suspension Hearing and the requirements under the State Law regarding sales to a person under the age of 21. Mr. Pungirum informed the Board that the amount of the fines are set within the law with the penalty of a first offense being One Thousand Dollars (\$1,000.00) and a suspension of the establishment's Tobacco permit for up to thirty (30) consecutive business days. The remaining fines/suspension lengths were reviewed. Mr. Pungirum suggested to the Board that they be consistent for first

offenses by setting the suspension at 3 (three) days. Mr. Pungirum informed the Board that as the violations were cited pursuant to the new State Law, all violations were being treated as a first offence. For each hearing, Mr. Pungirum reviewed the facts of the case with the Board prior to the Board voting on the suspension length of three (3) days to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 unless otherwise noted. All fines were paid prior to October 6, 2021 unless otherwise noted. Mr. Pungirum will reach out to the establishments regarding any permit suspension requirements.

Rita Super Market 515 Lawrence St. - Date of violation 05/26/21

Representatives for Rita Super Market were not present to speak to the Board. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by William Galvin, seconded by Lisa Golden. All in favor.

Vote:

Jo-Ann Keegan - yes
Lisa Golden - yes
William Galvin - yes
Erin Gendron - yes
Kathleen Cullen-Lutter - yes

Pete's Gulf 185 Woburn St - Date of violation 05/26/21

Representatives for Pete's Gulf were not present to speak to the Board. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by William Galvin, seconded by Lisa Golden. All in favor.

Vote:

Jo-Ann Keegan - yes
Lisa Golden - yes
William Galvin - yes
Erin Gendron - yes
Kathleen Cullen-Lutter - yes

Lizardo's Market and Restaurant - Date of violation 06/03/21

Representatives for Pete's Gulf were not present to speak to the Board. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by William Galvin, seconded by Erin Gendron. All in favor.

Vote:

Jo-Ann Keegan - yes
Lisa Golden - yes
William Galvin - yes
Erin Gendron - yes
Kathleen Cullen-Lutter - yes

Jay's Food Mart 166 Gorham St - Date of violation 06/03/21

Mrs. Bhumi Patel addressed the Board and indicated retraining of the employees was occurring. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by Erin Gendron, seconded by Lisa Golden. All in favor.

VOTE:

Jo-Ann Keegan - yes
Lisa Golden - yes
William Galvin - yes
Erin Gendron - yes
Kathleen Cullen-Lutter - yes

Infante Grocery II 326 Moody St - Date of violation 08/04/21

Mr. Gary Cruz, owner of the establishment, addressed the Board and noted that the minor used for compliance checks first entered their other store and was refused the sale. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by William Galvin, seconded by Erin Gendron. All in favor.

VOTE:

Jo-Ann Keegan - yes
Lisa Golden - yes
Erin Gendron - yes
William Galvin - yes
Kathleen Cullen-Lutter - yes

Simon's Convenience & Deli 590 Rogers St - Date of violation 08/04/21

Mr. Ankit Patel, the owner of the establishment, addressed the Board and indicated that there has been high employee turnover making it difficult to train new employees. Mr. Patel noted that there are a lot of new regulations and asked for assistance on how to train his employees or how to obtain an ID checker. Mr. Pungirum instructed Mr. Patel to contact his office for assistance. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by Erin Gendron, seconded by William Galvin. All in favor.

VOTE:

Jo-Ann Keegan - yes
Lisa Golden - yes
Erin Gendron - yes
William Galvin - yes
Kathleen Cullen-Lutter - yes

Joe's Kwik Marts 300 Merrimack St - Date of violation 08/04/21

Khalil Koudri, a representative of the establishment, was present to address the Board. The representatives noted that the employee who made the sale is no longer employed by them. Additionally, the establishment has a new Manager. Board Member Galvin noted that it is important that the Manager is aware of the law and that he follows it. Mr. Pungirum noted the fine had been paid and recommended a three day suspension.

Motion: For a three day suspension to be served from the start of Business on October 19, 2021 through the close of business on October 21, 2021 was made by Erin Gendron, seconded by Lisa Golden. All in favor.

VOTE:

Jo-Ann Keegan - yes
Lisa Golden - yes
Erin Gendron - yes
William Galvin - yes
Kathleen Cullen-Lutter - yes

Appeal Hearing

Jerry's Food Store 1172 Lawrence St - Date of violation 05/26/21

Mr. Pungirum informed the Board that the fine for this violation has not been paid due to the ticket being appealed.

Mr. Jay Patel, owner of the establishment was present to address the Board. Mr. Patel noted that it was the first violation the store has had in the twenty years he has been the owner. Mr. Patel asked the Board for help because COVID has slowed down the business and asked for a warning and probation. Mr. Pungirum informed the Board that the law clearly states the permit must be suspended for up to thirty (30) days and the Board cannot waive the fine or the suspension. When asked by the Board about previous violations, Mr. Pungirum told the Board that previous violations were only for inspections and not for a Sale to a Minor. Mr. Patel informed the Board that he is having difficulties and is asking the Board for help. Chairwoman Keegan noted that the Board had no choice on enforcement of the fine and suspension but a clean record for Sales to a Minor is something to consider and asked the wish of the Board. Discussion on the length of the suspension occurred.

Motion: For a one day suspension to be served from the start of Business on October 20, 2021 through the close of business on October 20, 2021 was made by Lisa Golden, seconded by Erin Gendron. All in favor.

VOTE:

Jo-Ann Keegan - yes

Lisa Golden - yes

Erin Gendron - yes

William Galvin - yes

Kathleen Cullen-Lutter – yes

Chairwoman Keegan asked Mr. Pungirum if the fine could be paid over two payments. Mr. Pungirum indicated that the law is silent on the issue. The Board agreed that Mr. Patel could pay the fine within thirty days.

2. OLD BUSINESS

2.1. Update: COVID-19

Interim HHS Director Brendan Flynn updated the Board regarding COVID-19 items such as Lowell's positivity rate, the restarting of Stop the Spread testing at the Cawley Stadium site, the change to the Health Department's vaccination clinic hours and about the percentage of Lowellians fully vaccinated (58%). Chairwoman Keegan updated the Board relative to the position of Temporary COVID Incident Commander. She has been asked to step into the position again; however, the City Council will be voting to give the designation of Special Employee to the Board of Health Members so she will not have to step down from the Board. Chairwoman Keegan updated the Board regarding the efforts to hold Mobile Clinics using Catalda Ambulance to target school aged children. Discussion occurred relative to the number of pregnant persons who passed from COVID-19 across the country in the month of August.

3. DIRECTOR'S REPORT

3.1. Department and Divisional Reports and Updates

Chairwoman Keegan informed the Board of the resignation of HHS Director Joanne Belanger on September 10, 2021 and that the City Manager has appointed Mr. Flynn as the Interim HHS Director.

Interim Director Flynn updated the Board relative to upcoming Employee/Retiree flu clinics and the upcoming Medication Take Back Day scheduled for October 23rd. Additionally a number of positions have been posted such as Public Health Nurse-Clinic, Public Health Nurse - Schools, Vision/Hearing Screeners, and positions for several new grants.

4. MOTION: TO ADJOURN

Motion: To adjourn at 7:24 PM made by William Galvin, seconded by Erin Gendron. All in favor

**THE NEXT MEETING OF THE BOARD OF THE BOARD OF HEALTH WILL BE ON
OCTOBER 6, 2021 AT 6:00 PM IN CITY HALL, MAYOR'S RECEPTION ROOM,
375 MERRIMACK ST., 2ND FLOOR LOWELL, MA 01852**